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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/715,425	11/19/2003	Jerome Cornet	ALC 3097	5332

7590 08/13/2007
KRAMER & AMADO, P.C.
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EXAMINER

BIAGINI, CHRISTOPHER D

ART UNIT	PAPER NUMBER
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2142

MAIL DATE	DELIVERY MODE
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08/13/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/715,425

Applicant(s)

CORNET ET AL.

Examiner

Christopher D. Biagini

Art Unit

2142

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 5/18/2005

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 3, 4, 7, and 8 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.
3. Regarding claims 3 and 4, the claims are directed to a method that merely manipulates abstract ideas, and does not produce a "useful, tangible, and concrete result." See MPEP §2106.
4. The Examiner recommends amending the claim to recite a "useful, tangible, and concrete result," such as routing the packets according to the determined routing action.
5. Regarding claims 7 and 8, the claims are directed to non-functional descriptive material. Although the claim may be reasonably interpreted as being directed to a data structure, that data structure does not impart functionality when employed as a computer component. See MPEP §2106.01. In other words, the schema itself is not executable by a computer; rather, it is merely used to provide routing directives that are interpreted and applied by the actual routing software.

6. The Examiner recommends amending the claim to recite a computer program that imparts functionality when employed as a computer component, such as a program that interprets a schema containing routing rules and routes packets accordingly.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Abjanic et al. (US PG PUB 2003/0028654, hereinafter "Abjanic") in view of Horvitz (US PG PUB 2003/0097495).

9. Regarding claim 1, Abjanic shows a content switch comprising:
- a. a parser for parsing a document associated with a packet (comprising a group of configuration patterns: see [0059]) and containing routing rules (pattern parser 708 in director 145: see Fig. 7 and [0088]); and
 - b. a routing instruction processor to interpret the routing rules (content based switching decision logic 710 in director 145: see Fig. 1, Fig. 7, [0066], and [0083]).
10. Abjanic does not show a schema document associated with a packet and containing routing rules.

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11. Horvitz shows a schema document associated with a packet and containing routing rules (see [0159]-[0160]).

12. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system of Abjanic with the schema document of Horvitz in order to provide routing "hints" to a downstream network element (see Horvitz, [0159]).

13. Regarding claim 2, Abjanic in view of Horvitz shows the limitations of claim 1 as applied above, and Abjanic further shows wherein the content switch is for parsing XML-based language (see [0028]).

14. Regarding claim 3, Abjanic shows a method comprising:

- a. determining a routing action to be taken on packets of a flow associated with a document wherein the determination is made by applying routing rules to elements parsed from the document (see [0088]).

15. Abjanic does not show wherein the document is written according to a schema containing routing rules.

16. Horvitz shows a document written according to a schema containing routing rules (see [0159]-[0160]).

17. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system of Abjanic with the schema document of Horvitz in order to provide routing "hints" to a downstream network element (see Horvitz, [0159]).

18. Regarding claim 4, Abjanic in view of Horvitz shows the limitations of claim 3 as applied above, and Abjanic further shows wherein an XML-based language is used (see [0028]).

19. Regarding claim 5, Abjanic shows:

a. a content switch (director 145) having a routing instruction processor capable of interpreting routing rules in a document and applying the rules to elements in the network (content based switching decision logic 710 in director 145: see Fig.1, Fig. 7, [0066], and [0083]), the rules being parsed from the document (see [0059]), and means to determine a routing action to be performed on packets from a packet flow associated with the document (see [0066]).

20. Abjanic does not show routing rules in a document written according to a schema.

21. Horvitz shows routing rules in a document written according to a schema (see [0159]-[0160]).

22. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system of Abjanic with the schema document of Horvitz in order to provide routing "hints" to a downstream network element (see Horvitz, [0159]).

23. Regarding claim 6, Abjanic in view of Horvitz shows the limitations of claim 3 as applied above, and Abjanic further shows wherein the system is for parsing XML-based languages (see [0028]).

24. Regarding claim 7, Abjanic shows an apparatus comprising:
- c. a computer-readable medium containing a document which includes routing rules (see [0059]), which, when accessed to parse a document, provide routing actions to be taken on packets belonging to a traffic flow associated with the document (see [0066]).
25. Abjanic does not show a schema including routing rules which provide routing actions.
26. Horvitz shows a schema including routing rules which provide routing actions.
27. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system of Abjanic with the schema document of Horvitz in order to provide routing "hints" to a downstream network element (see Horvitz, [0159]).
28. Regarding claim 8, Abjanic in view of Horvitz shows the limitations of claim 7 as applied above, and Abjanic further shows wherein the routing rules are defined by an application provider (see [0047] and [0054]).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher D. Biagini whose telephone number is (571) 272-9743. The examiner can normally be reached on M-R 7:30-5, 7:30-4 alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Caldwell can be reached on (571) 272-3868. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Christopher Biagini
(571) 272-9743

A handwritten signature in black ink, appearing to read "Andrew Caldwell". The signature is fluid and cursive, with the first name "Andrew" and last name "Caldwell" clearly distinguishable.

ANDREW CALDWELL
SUPERVISORY PATENT EXAMINER

August 6, 2007